

INTRODUCTORY

**§ 793.0 Purpose of interpretative bulletin.**

This part 793 constitutes the official interpretative bulletin of the Department of Labor with respect to the meaning and application of section 13(b)(9) of the Fair Labor Standards Act of 1938, as amended. This section provides an exemption from the overtime pay provisions of the Act for certain employees employed by certain small market radio and television stations. This exemption was added to the Act by the 1961 amendments. It is the purpose of this bulletin to make available in one place the interpretations of the provisions in section 13(b) (9) which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon re-examination of an interpretation, that it is incorrect.

**§ 793.1 Reliance upon interpretations.**

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. All prior opinions, rulings and interpretations which are inconsistent with the interpretations in this bulletin are rescinded and withdrawn.

**§ 793.2 General explanatory statement.**

Some employees of radio and television stations perform work which may be exempt from the minimum wage and overtime requirements under section 13(a)(1) of the Act. This 13(a)(1) exemption applies to employees employed in a bona fide executive, administrative or professional capacity, or in the capacity of outside salesman, as these terms are defined and delimited by regulations of the Secretary. This exemption continues to be available for employees of radio and television stations who meet the requirements for exemption specified in part 541 of this chapter. The section 13(b) (9) exemption, which is an exemption from the overtime provisions of the Act, but not from the minimum wage requirements, applies to a limited classification of

employees employed by small market radio and television stations whose employment meets the requirements for the exemption. These requirements and their meaning and application are discussed in this bulletin.

REQUIREMENTS FOR EXEMPTION

**§ 793.3 Statutory provision.**

Section 13(b) (9) of the Act exempts from the overtime requirements of section 7, but not from the minimum wage provisions of section 6, of the Act:

any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area.

**§ 793.4 General requirements for exemption.**

All of the following requirements must be met in order that an employee may be exempt under section 13(b) (9):

(a) The employee must be "employed as" an announcer, or a news editor, or a chief engineer.

(b) The employee must be employed "by" a radio or television station.

(c) The major studio of such radio or television station must be located in a city or town which meets the prescribed population and locality tests.

**§ 793.5 What determines application of the exemption.**

The exemption applies only to an employee who is "employed as" an announcer, news editor, or chief engineer under the conditions specified in section 13(b) (9). Although the nature of the employer's business is important in applying the exemption to a particular employee in one of the named occupations, employment in the named occupation is an essential prerequisite for